

**MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODY**

Original

United States District Court		District
Name (under which you were convicted):		Docket of Case No:
KRISTIN L. DOUGHERTY		4:-09-cr-00143-ODS-4
Place of Confinement		Prisoner No:
Federal Corr. Inst. P.O. 5000 Greenville, IL 62246		36356-044
Movant	V.	United States of America
KRISTIN L. DOUGHERTY		

MOTION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

U.S. Dist. Ct. Western District of Mo. 400 E. 9th St. Kansas City, Mo. 64106

(b) Criminal docket or case number (if you know): 4:09-cr-00143-ODS-4

2. (a) Date of the judgment of conviction (if you know): October 28, 2010

(b) Date of sentencing: April 27, 2011

3. Length of sentence: Five years-60 months (Concurrent 3-Counts)

4. Nature of crime (all counts): 18 U.S.C. § 1962(c) Racketeering
18 U.S.C. § 1962(d) Racketeering Conspiracy
18 U.S.C. § 1343 Wire Fraud

5. (a) What was your plea: (Check one)

(1) Not guilty ☒ XX

(2) Guilty

(3) Nolo contendere (no contest)

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? _____

6. If you went to trial, what kind of trial did you have? (Check one) ☒ Jury ☐ Judge Only

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☒ No

8. Did you appeal from the judgment of conviction? Yes ☒ No

9. If you did appeal, answer the following:

(a) Name of court: _____

(b) Docket or case number (if you know): _____

(c) Result: _____

(d) Date of result (if you know): _____

(e) Citation of the case (if you know): _____

(f) Grounds raised: _____

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☒ No

If "Yes," answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

(5) Grounds raised: _____

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

(a)(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?
Yes No

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you file any second motion, petition, or application, give the same information:

(1) Name of court: _____

(2) Docket of case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?
Yes No

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition Yes No

(2) Second petition Yes No

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: _____

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: See Attached Brief in Support

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim): _____

(b) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment or conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue on appeal?

Yes No

(6) If your answer to question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket case number (if you know): _____

Date of the court's decision: _____

Result: (attach a copy of the court's opinion or order if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND TWO: See Attached brief in support

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim): _____

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment or conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue on appeal?

Yes No

(6) If your answer to question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket case number (if you know): _____

Date of the court's decision: _____

Result: (attach a copy of the court's opinion or order if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND THREE: See attached brief in support

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim): _____

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment or conviction, did you raise this issue?

Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes No

(2) If your answer to Question (c)(1) is "Yes", state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes No

(4) Did you appeal from the denial of your motion, petition, or application?

Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue on appeal?

Yes No

(6) If your answer to question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket case number (if you know): _____

Date of the court's decision: _____

Result: (attach a copy of the court's opinion or order if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

GROUND FOUR: _____ See attached brief in support

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim): _____

(b) Direct Appeal of Ground Four:

(1) If you appealed from the judgment or conviction, did you raise this issue?
Yes No

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?
Yes No

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?
Yes No

(4) Did you appeal from the denial of your motion, petition, or application?
Yes No

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue on appeal?
Yes No

(6) If your answer to question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket case number (if you know): _____

Date of the court's decision: _____

Result: (attach a copy of the court's opinion or order if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____
None of the issues have been previously raised due to ineffective assistance of counsel the reason being that counsel gave erroneous advice as to appellate issues and other erroneous advice that led Petitioner to not filing a notice of appeal.

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes No ☒ XX

If "Yes," state the name and location of the court, the docket or case number, the type or proceeding, and the issues raised: _____

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Nathan J. Owings, 1000 Walnut St. Kansas City, Mo.

64106

(b) At arraignment and plea: Same

(c) At trial: Same

(d) At sentencing: Same

(e) On appeal: None taken due to erroneous consult.

(f) In any post-conviction proceeding: None

(g) On appeal from any ruling against you in a post-conviction proceeding: None

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☒ No ☒

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date of the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitation as contained in 28 U.S.C § 2255 does not bar your motion.* (see below) _____

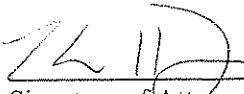
*The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period limitations shall apply to a motion under this section. The limitation period shall run from the latest of:

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;

- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

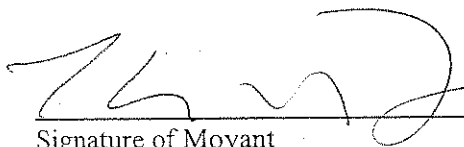
Therefore, Movant asks that the Court grant the following relief: Vacate convictions and sentence(s) or in the alternative grant an evidentiary hearing to further develop the record.
or any other relief to which movant is entitled.



Signature of Attorney (if any)

I, declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion Under 28 U.S.C. § 2255 was placed in the prison mailing system on 1-18-2012
2012 (month, date, year).

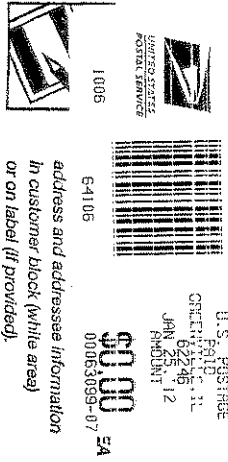
Executed (signed) on 1-18-2012 (date)



Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not signing this motion. _____

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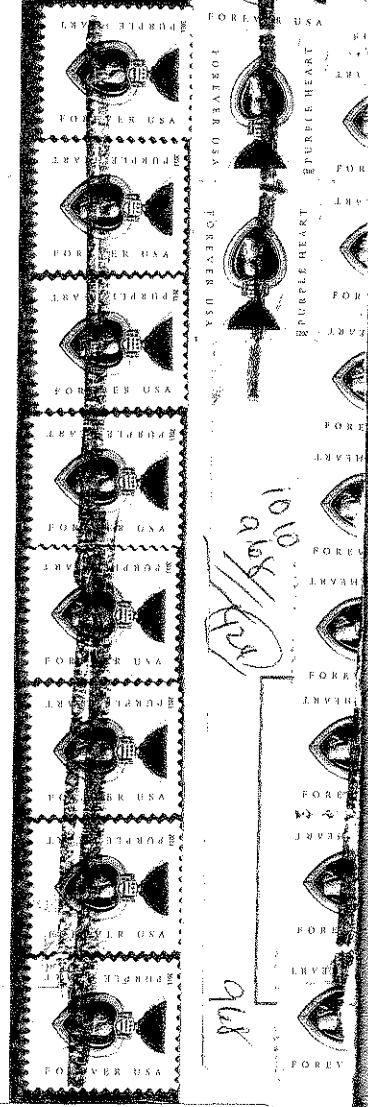


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Kristin Dougherty #36356-044
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